

REMARKS

Reconsideration of this application is respectfully requested in view of the following remarks.

STATUS OF CLAIMS AND SUPPORT FOR AMENDMENTS

Claims 1-15 are currently pending in this application. Applicant has amended claim 7 to recite that the program is a computer program, support for which amendment can be found, *inter alia*, at paragraph [0023]. New claim 15 is supported by the specification, *inter alia*, at paragraph [0018] - [0020] and Table 1.

No new matter has been added.

INTERVIEW

Applicant wishes to express appreciation to Examiner Cruz and SPE Poon for the courtesies extended to Applicant's representative during the personal interview conducted on August 28, 2008. With respect to the rejection under 35 U.S.C. § 101, it was agreed that the amendment made herein overcomes that rejection, which will be withdrawn. With respect to the rejection under 35 U.S.C. § 103(a), Applicant's representative summarized the arguments presented below, which the Examiner agreed to carefully consider when this response is received.

REJECTION UNDER 35 U.S.C. § 101

In paragraph 2 of the Office Action, the Examiner has rejected claims 7-12 and 14 under 35 U.S.C. § 101 being as to failing to fall within a statutory category of invention. Applicant respectfully traverses this rejection for the reasons given below.

In an effort to advance prosecution, Applicant has amended claim 7 to more clearly recite that the stored program is a computer program. Applicant submits that the language "a computer-readable storage device storing a computer program

comprising steps of" recites a computer element that defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized. As a result, these claims are statutory under MPEP § 2106.01(I) and *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994).

At the personal interview conducted on August 28, 2008, the Examiner agreed that the language of claims 7-12 above is statutory, and that this rejection will be withdrawn.

OBVIOUSNESS REJECTION

In paragraph 4 of the Office action, the Examiner has rejected claims 1-14 under 35 U.S.C. 103(a) as being obvious over U.S. Patent Publication No. 2002/0019848 A1 (Sugawara et al.) in view of U.S. Patent No. 6,823,367 (Wakasugi et al.). Applicant respectfully traverses this rejection for the reasons given below.

The Examiner admits that Sugawara et al. fails to disclose a controller that issues a transmission report at predetermined timings. See Office action dated May 23, 2008 at page 4. Recognizing this deficiency in Sugawara et al., the Examiner turns to Wakasugi, stating that:

Wakasugi'367 teaches a controller which issues a transmission management report at predetermined timings (i.e., the clock circuit controls the timing of confirmations/reports about the transmission and has an option of perform the reports at fixed/predetermined time intervals. See Column 6, lines 5-13, See Column 14, Lines 48-60, See Column 19, Lines 64-67 and See Column 21, Lines 19-21.

Office action dated May 23, 2008 at page 4. From this, the Examiner concludes that:

Having the system of Sugawara'848 and then given the well-established teaching of the Wakasugi'367, it would have been obvious to one having ordinary skill in the art at the time of the invention was made to modify the system as suggested by the

combination of Sugawara'848 with the teachings of Wakasugi'367 by issuing the transmission management reports at predetermined timings, in order to improve the system by making the transmission reports more efficient, accurate and effective.

Office action dated May 23, 2008 at page 4.

The Examiner appears to have confused the issuance of a transmission management report, covering a plurality of transmissions, at predetermined timings (a feature of Applicant's claim 1) with the sending of notification email (i.e., step S 1107 of Wakasugi et al.) within a fixed time interval (Wakasugi et al., column 21, lines 19-21). These are not the same. In Applicant's claims, the transmission report is for a plurality of transmissions. In the relevant portion of Wakasugi et al. the report triggered by a 12 hour timer relates only to a particular transmission, not to a plurality of transmissions.

Moreover, the portion of Wakasugi et al. specifically cited by the Examiner does not indicate that the email reception occurs at a predetermined timing; but merely that email reception is performed more than once within a fixed period of time. As far as this particular portion of Wakasugi et al. is concerned, the timing of these performances could be completely random (i.e., not predetermined).

As a result, even if the teachings of Wakasugi et al. were combined with those of Sugawara et al. in the manner that the Examiner has suggested, the result would not be the invention claimed in Applicant's claims 1 or 7, and no *prima facie* case of obviousness has been established for these claims. Moreover, since claims 2-6 and 13 depend from claim 1, and since claims 8-12 and 14 depend from claim 7, no *prima facie* case of obviousness exists for these claims either. Accordingly, Applicant respectfully submits that the Examiner's rejection should be withdrawn.

For at least the foregoing reasons, Applicant believes this application to be in the condition for allowance.


Should there be any remaining issues regarding this application, it would be appreciated if the Examiner would telephone the undersigned representative concerning such questions, so that the prosecution of this application may be expedited.

Respectfully submitted,

BUCHANAN INGERSOLL & ROONEY LLP

Date: September 9, 2008

By:


Bruce D. Gray
Registration No. 35799

P.O. Box 1404
Alexandria, VA 22313-1404
650 622 2300